

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Anderson	Team: Squad #11	CCRB Case #: 201904935	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/30/2019 9:48 AM	Location of Incident: § 87(2)(b); 46th Precinct stationhouse	Precinct: 46	18 Mo. SOL 11/30/2020	EO SOL 7/17/2021	
Date/Time CV Reported Fri, 06/07/2019 12:14 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 06/07/2019 12:14 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Tell Beharry	00058	927910	046 PCT
2. Officers			046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Adam Salah	19686	959185	046 PCT
2. POM Nicholas Soreca	05884	953430	046 PCT
3. POM Yaw Asare	12180	951512	046 PCT
4. POM Stephen Oliver	21260	952067	046 PCT
5. POM Anthony Duro	14044	950362	046 PCT
6. POM Daniel Edwards	09840	950370	046 PCT
7. POM Henry Dasilva	21930	936430	046 PCT
8. POF Fatime Osmanovic	15801	957925	046 PCT
9. POM Jose Gonzalez	19371	959666	046 PCT
10. POM Miguel Rosario	00472	961561	046 PCT
11. LT John Lewis	00000	924073	046 PCT
12. POM Fishel Litzman	02320	951926	046 PCT
13. POM Omar Espinal	03678	938442	046 PCT
14. POM Nefi Navarro	26787	965364	046 PCT
15. SGT Earl Morgan	03753	950918	046 PCT
16. POM Jimmy Samuel	21274	952205	046 PCT
17. POM Brian Echeverry	07303	941693	046 PCT
18. POF Moshanique Overstreetcolon	04514	966757	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: In front of § 87(2)(b) in the Bronx, officers pointed their guns at § 87(2)(b)	§ 87(2)(b)
B. Officers	Discourtesy: In front of § 87(2)(b) in the Bronx, officers spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
C.SGT Tell Beharry	Abuse: At the 46th Precinct stationhouse, Sergeant Tell Beharry did not obtain medical treatment for § 87(2)(b)	

## Case Summary

On June 7, 2019, § 87(2)(b) filed this complaint in-person at the CCRB.

On May 30, 2019, at approximately 9:48 a.m., § 87(2)(b) left his home, located at § 87(2)(b) in the Bronx, and walked to § 87(2)(b) for a physical therapy appointment. When he exited the building, numerous uniformed and plainclothes officers ran towards him, pointing their guns at him (**Allegation A -Force: Gun Pointed**, § 87(2)(g)). Numerous officers allegedly instructed § 87(2)(b) to "get the fuck" onto the ground (**Allegation B -Discourtesy: Word**, § 87(2)(g)). § 87(2)(b) was arrested, charged with § 87(2)(b) (Board Review 01), and transported to the 46th Precinct stationhouse, where he requested medical treatment for issues regarding his heart. Sgt. Tell Beharry of the 46th Precinct allegedly told § 87(2)(b) that he did not require medical treatment (**Allegation C -Abuse of Authority: Refusal to obtain medical treatment**, § 87(2)(g)).

Video footage obtained in this case was recorded by officers using their Body-Worn Cameras (BWCs), cameras in the 46th Precinct stationhouse, and street level cameras maintained by the NYPD's Technical Assistance and Response Unit (TARU), and provided, in all cases, to the CCRB by the NYPD.

## Findings and Recommendations

**Allegation (A) Force: In front of § 87(2)(b) in the Bronx, officers pointed their guns at § 87(2)(b)**

**Allegation (B) Discourtesy: In front of § 87(2)(b) in the Bronx, officers spoke discourteously to § 87(2)(b)**

It is undisputed that § 87(2)(b) wore blue and white clothing emblazoned with BMW logos during the incident, that an individual called 911 to report that § 87(2)(b) wearing this outfit, had brandished a gun to him, and that § 87(2)(b) was subsequently apprehended approximately two blocks from the 911 caller's location.

§ 87(2)(b) stated (Board Review 02) that when approximately twelve to fifteen officers approached him outside of § 87(2)(b), all of them pointed their guns at him. As they did so, multiple officers instructed him, "Get on the fucking floor."

PO Adam Salah (Board Review 03), PO Nicholas Soreca (Board Review 04), PO Daniel Edwards (Board Review 05), and PO Anthony Duro (Board Review 06) all stated that they arrived at § 87(2)(b)'s arrest location after officers had stopped him, that they did not point their guns at him, that they did not use profanity towards him, and that they did not witness any officer take either of these actions.

Sgt. Tell Beharry stated (Board Review 07) that he was not present at the scene of § 87(2)(b)'s arrest.

BWC footage recorded by PO Jose Gonzalez and Miguel PO Rosario depicts the process of these officers approaching § 87(2)(b). In two side-by-side portions of their recorded footage, one of which contains the audio track recorded in PO Gonzalez' footage (Board Review 08) and one of which contains the audio track recorded in PO Rosario's footage (Board Review 09), it is apparent that during the period of § 87(2)(b) responding to officer presence and moving, of his own accord, from a standing position to a face-down position on the ground, PO Gonzalez and PO Rosario are the first officers to reach him. During their approach, both PO

Gonzalez and PO Rosario issue repeated commands to § 87(2)(b) of a nature instructing him to move to the ground. None of these commands include any profanity.

An officer may draw or display a firearm based on an articulable belief that the potential for serious physical injury is present. NYPD Patrol Guide, Section 221-01 (Board Review 10).

§ 87(2)(g)

§ 87(2)(g)

**Allegation (C) Abuse of Authority: At the 46th Precinct stationhouse, Sergeant Tell Beharry did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) stated that while lodged in a holding cell, he suffered from chest pain and requested that officers obtain medical treatment for him by transporting him to a hospital. Sgt. Beharry heard this request and told § 87(2)(b) that he did not need to go to a hospital.

Contact attempts to the points of contact revealed in exhaustive database searches for the prisoner in § 87(2)(b)'s holding cell at the time of this allegation, identified via investigation as § 87(2)(b) were unsuccessful, and no statement was obtained from him.

Sgt. Beharry acknowledged that he interacted with § 87(2)(b) in the stationhouse holding cell area and stated that this interaction consisted of § 87(2)(b) requesting that officers review video footage that might exonerate him of his criminal charges and Sgt. Beharry responding to this request. Sgt. Beharry did not recall speaking to § 87(2)(b) about anything else within the holding cell area, including § 87(2)(b)'s medical conditions or desire to receive medical treatment or be transported to a hospital. Sgt. Beharry did not recall § 87(2)(b) requesting that he obtain medical treatment for him.

When presented with a portion of video footage depicting Sgt. Beharry interacting with an individual lodged in a holding cell during this incident, Sgt. Beharry recognized himself at the top of the frame. Sgt. Beharry stated that he had entered the holding cell area due to an issue regarding how a transgender female prisoner would be lodged within the holding cells, one of which housed males, including § 87(2)(b). § 87(2)(b) summoned Sgt. Beharry to his holding cell, and he approached it and spoke with him. Sgt. Beharry stated that this footage reflected the conversation with § 87(2)(b) that he previously attested to and nothing else he could recall.

All other officers interviewed in this case either denied witnessing or recalling any interactions between Sgt. Beharry and § 87(2)(b) in the stationhouse.

§ 87(2)(g)

### Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one CCRB and has been named as a victim in two allegations (Board Review 11):
  - § 87(2)(b)
- Sgt. Beharry has been a member-of-service for 18 years and has been a subject in four CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)

### Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of August 20, 2019, § 87(2)(b) has not filed a Notice of Claim with the New York City Office of the Comptroller (Board Review 12).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_

Signature	Print Title & Name	Date
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Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
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Reviewer: \_\_\_\_\_

Signature	Print Title & Name	Date
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